

AMENDED IN SENATE AUGUST 18, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 28, 2010

AMENDED IN SENATE JUNE 14, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2036

Introduced by Assembly Member Bill Berryhill

February 17, 2010

An act to add Section ~~10170~~ 20103.7 to the Public Contract Code, relating to ~~public~~ *local agency* contracts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2036, as amended, Bill Berryhill. ~~Public~~ *Local agency* contracts: contract document distribution.

Existing law, the Local Agency Public Construction Act, sets forth the procedures pursuant to which local agencies may solicit and evaluate bids or proposals for, and award, contracts for the construction of public works.

This bill would require a local agency taking bids for the construction of a public work or improvement to distribute contract documents, as specified, to a prospective bidder, subcontractor bidder, supplier, and contractor plan room service, as prescribed. The bill would also require the local agency to reimburse a design professional, as defined, for the actual costs of preparation and distribution of the contract documents.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law imposes various requirements with respect to contracting by public agencies.~~

~~This bill would require an officer, department, board, or commission, taking bids for the construction of a public work or improvement, to distribute contract documents, as specified, to a prospective bidder, subcontractor bidder, supplier, and contractor plan room service, as prescribed.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20103.7 is added to the Public Contract
 2 Code, to read:
 3 20103.7. (a) A local agency subject to this chapter taking bids
 4 for the construction of a public work or improvement shall
 5 distribute a paper or electronic copy of the project's contract
 6 documents, including all drawings, plans, specifications, and
 7 estimated total costs of the proposed public improvement, at no
 8 charge to a prospective bidder, subcontractor bidder, supplier,
 9 and contractor plan room service when requested by a contractor
 10 plan room service. If a deposit is required as part of a paper
 11 contract documents distribution policy by the local agency, the
 12 deposit shall not exceed two hundred fifty dollars (\$250) per set,
 13 which shall be refunded upon the return of the contract documents
 14 within 14 business days after the award of the project. If the
 15 contract documents are not returned in 30 business days and in
 16 reusable condition, the deposit shall be forfeited. The local agency

1 shall reimburse a design professional for the actual costs of
2 preparation and distribution of the contract documents.

3 (b) For the purposes of this section, “design professional”
4 includes all of the following:

5 (1) An individual licensed as an architect pursuant to Chapter
6 3 (commencing with Section 5500) of Division 3 of the Business
7 and Professions Code, or a business entity offering architectural
8 services in accordance with that chapter.

9 (2) An individual licensed as a landscape architect pursuant to
10 Chapter 3.5 (commencing with Section 5615) of Division 3 of the
11 Business and Professions Code, or a business entity offering
12 landscape architectural services in accordance with that chapter.

13 (3) An individual registered as a professional engineer pursuant
14 to Chapter 7 (commencing with Section 6700) of Division 3 of the
15 Business and Professions Code, or a business entity offering
16 professional engineering services in accordance with that chapter.

17 (4) An individual licensed as a professional land surveyor
18 pursuant to Chapter 15 (commencing with Section 8700) of
19 Division 3 of the Business and Professions Code, or a business
20 entity offering professional land surveying services in accordance
21 with that chapter.

22 SEC. 2. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

27 SEC. 3. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety within
29 the meaning of Article IV of the Constitution and shall go into
30 immediate effect. The facts constituting the necessity are:

31 Due to the current policy of many local agencies charging
32 prospective bidders for a copy of the contract documents, many
33 contractors are unable to afford to submit bids, which is having
34 a dampening effect on competition by increasing the cost of
35 building certain public works projects, and in order to address
36 this matter in a timely manner, it is necessary that this act take
37 effect immediately.

38 ~~SECTION 1. Section 10170 is added to the Public Contract~~
39 ~~Code, to read:~~

1 10170. ~~An officer, department, board, or commission taking~~
2 ~~bids for the construction of a public work or improvement shall~~
3 ~~distribute a paper or electronic copy of the project's contract~~
4 ~~documents, including all drawings, plans, specifications, and~~
5 ~~estimated total costs of the proposed public improvement, at no~~
6 ~~charge to a prospective bidder, subcontractor bidder, supplier, and~~
7 ~~contractor plan room service when requested by a contractor plan~~
8 ~~room service. If a deposit is required as part of a paper contract~~
9 ~~documents distribution policy by the officer, department, board,~~
10 ~~or commission, the deposit shall not exceed two hundred fifty~~
11 ~~dollars (\$250) per set, which shall be refunded upon the return of~~
12 ~~the contract documents within 14 business days after the award of~~
13 ~~the project. If the contract documents are not returned in 30~~
14 ~~business days and in reusable condition, the deposit shall be~~
15 ~~forfeited. The government entity shall reimburse a landscape~~
16 ~~architect, architect, or professional engineer for the actual costs of~~
17 ~~preparation and distribution of plans and specifications.~~

18 ~~SEC. 2. This act is an urgency statute necessary for the~~
19 ~~immediate preservation of the public peace, health, or safety within~~
20 ~~the meaning of Article IV of the Constitution and shall go into~~
21 ~~immediate effect. The facts constituting the necessity are:~~

22 ~~Due to the current policy of many public agencies charging~~
23 ~~prospective bidders for a set of project plans, many contractors~~
24 ~~are unable to afford to submit bids, which is having a dampening~~
25 ~~effect on competition by increasing the cost of building certain~~
26 ~~public works projects, and in order to address this matter in a timely~~
27 ~~manner, it is necessary that this act take effect immediately.~~